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South Carolina Chapter

November 1, 1999

Mr. Thomas Sugrue, Chief
Wireless Telecommunications Bureau
Federal Communication Commission
445 12th St. SW
Washington, D.C., 200554

Re: Docket #94-102, FCC Consideration of Waiver of Cost Recovery
Mechanism Pre-Requisite to CMRS Provider Mandatory Provision of
Enhanced 911 Services.

Dear Mr. Sugrue,

This is for the FCC decision makers' information and consideration concerning the above referenced matter from two of the South Carolina (SC) county officials most involved with SC CMRS E911 legislation and its implementation. We understand that the FCC is considering whether to eliminate the requirements that a cost recovery mechanism be in place before a wireless carrier can be required to provide Phase I or Phase II E911 service. See 47 C.F.A. §20.18 (f). We would oppose any modification to the current cost recovery mechanism.

Rene Hardwick is the President of the SC Chapter of NENA, the 911 coordinator for Horry County and a member of the SC Ad Hoc Advisory Committee on SC CMRS E911 legislation and its statutory successor, known as the SC CMRS E-911 Advisory Committee. Ralph Inman was the 911 official most involved in the passage of SC's original 911 law, a president of SC NENA, and chairman of the Ad Hoc Committee. He is the Greenville County 911 Director and the other PSAP member of the statutory Advisory Committee.

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In all of these capacities, we both have worked closely and cooperatively with SC's state 911 agency, its Budget and Control Board, particularly its Office of Information Resources, and members of the telecommunication industries. In the last few years this collaboration has focused on CMRS 911. Prior to the FCC's Report and Order in Docket # 94-102, the state and county 911 communities tried to pass legislation extending the payment of the 911 surcharges already paid by wireline subscribers to CMRS subscribers. CMRS provider opposition, based in part on the absence of CMRS enhanced services, deterred these efforts. After the FCC released its First Report and Order in 94-102, which required the adoption of a cost recovery mechanism before wireless carriers could be required to provide Phase I or Phase II E911 services, SC's CMRS E911 law passed, due largely to the Ad Hoc Committee, the support of the local 911 and public safety community, and the support and assistance of the CMRS and wireline telecommunications industries' lawyers, lobbyists and officials. Although it is impossible to ascertain the proportional contribution of any group involved, the industries' support was essential and pivotal, and SC's CMRS E911 bill would not have passed without it.

Any increase in the amount of the surcharge that may be necessary for Phase II likewise will require the industries' support. It is also possible that, absent industry support, the General Assembly will reduce or eliminate the current state CMRS E911 surcharge, which can be characterized as a tax, and as such, is unquestionably unpopular with at least some legislators. A subcommittee of the House will be considering a bill amending SC's CMRS E911 Act early in 2000.

Failure to increase the surcharge for Phase II, let alone decreasing or eliminating it, would have a devastating effect on SC's CMRS E911 implementation. Without this surcharge, there would then be no designated source of funding for the PSAP's implementation of CMRS E911, and they would lose the CMRS subscriber contribution to PSAP E911 service delivery as a whole.

Furthermore, our experience has confirmed that the industries' cooperation is essential to implementing, as well as legislating, such systems. SC's has had such progress largely because, under the existing rules and processes, CMRS providers have a number of strong incentives to implement enhanced CMRS E911 services, including the above considerations, the safety service provided their safety conscious subscribers, the providers' ability to recoup their costs without apparent responsibility for subscriber rate increases, and the partnership developed through the FCC's urging and the negotiated agreement formalized in the First Report and Order. These incentives would vanish under the "bill and keep or bill and take" alternatives, leaving the providers with little incentive other than public service and fear of FCC action. Without these incentives and the

negotiated partnership, only forced cooperation remains. This is often problematic, highly unreliable, slow, and very time consuming and draining on the limited federal, state and local government personnel concerned.

It may well be counterproductive as well to penalize those who have been implementing CMRS E911 in order to coerce those providers which are not. This seems particularly inappropriate when few to no local jurisdictions have complained to the FCC, and it has not been enforcing Docket #94-102's requirement that CMRS providers implement Phase I within six months of the PSAP request, etc. This would be especially true in SC where providers for over 80 percent of our CMRS subscribers have come forward and are turning on Phase 1 services or are close to doing so.

Finally although the FCC has left the choice of solutions, particularly for Phase II, to the providers, the surcharge or "cost recovery mechanism" funding process does provide PSAPs, and the partnership of PSAPs, the state and the industries with some influence in, and a veto over, some aspects of that choice. It appears that the "bill and keep or bill and take" mechanism currently being considered by FCC could diminish if not eliminate that influence and certainly any veto, at least for those choosing that option, and perhaps through the diminution and possible dissolution of that partnership and even the current administrative and consensus oriented bodies.

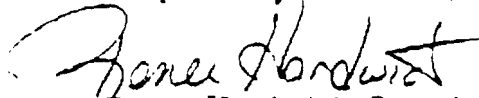
That partnership is working well in SC, if not perfectly. In fact our greatest implementation problems arise from some providers' small subscriber to coverage area ratios, whose per subscriber costs will be very high. Thus, although they will be providing Enhanced 911 services for roaming non-subscribers, they or their subscribers will have almost prohibitive costs, without any help from other companies' subscribers, if the FCC concludes that a "bill and keep or bill and take" mechanism is a permissible method of cost recovery. On the other hand, it may be in SC that continuing to foster the partnership, rather than straining or dissolving it, with the SC cost recovery funding mechanism could lead to the large providers helping the project, the state, overall, by providing CMRS E-911 coverage for the small providers with this reimbursement of their cost.

SC's considerable progress in Phase I implementation, including its CMRS E911 Act, turns on, and illustrates, this partnership between all the communities involved in delivering enhanced CMRS 911 services. The FCC wisely fostered and almost insured this partnership in its First Report and Order. It appears that eliminating the cost recovery mechanism- the carrot- and the fear of more coercive, potential FCC action by using the stick now, in this way, may well eliminate the glue of the harness which holds such a strong team, with otherwise diverse interests, together in an Enhanced CMRS 911 troika.

In any case, it certainly appears to our particular 911 community that the unintended consequences of waiving the cost recovery mechanism, of digressing from systems based on it and terms and conditions based on it and from situations which are working, at least in SC, have been inadequately explored.

This waiver would be drastic action, with possibly devastating consequences. The waiver would violate and negate the pre- First Order agreement of all parties but the states. It would contravene many of the actions taken and investments made by a host of entities in reliance on the First Order. Removing the cost recovery mechanism will deter CMRS providers from participation in the developing, productive partnerships resulting from the FCC's present scheme. The FCC should not adopt such a waiver based upon a few pages of comments from one of the organizations represents only a few of the multitude of those partners. Rather, fairness and the implementation of enhanced 911 services suggest that the FCC conduct further, extensive proceedings before waiving the cost reimbursement mechanism requirement, and that it should work with the 911 community to take some action against CMRS providers which are violating its First Report and Order before eliminating the keystone of its well tailored and effective scheme for implementing enhanced CMRS 911 services throughout the country.

Respectfully submitted,



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Member SC CMRS Advisory Committee,
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